

STATE OF MICHIGAN
COURT OF APPEALS

MARIA LILIA ORTEGA,

Plaintiff-Appellee,

v

GERARD EDWARD TRUDEL,

Defendant-Appellant.

UNPUBLISHED

August 26, 2003

No. 239744

Wayne Circuit Court

LC No. 00-004880-DM

Before: Zahra, P.J., and Talbot and Owens, JJ.

PER CURIAM.

Defendant appeals as of right from two circuit court orders assessing costs against him. We affirm. We decide this appeal without oral argument pursuant to MCR 7.214(E).

The court imposed costs against defendant after he appeared two hours late for an adjourned hearing on his motion for counseling and parenting time. Defendant argues that there is no court rule that allows costs for appearing late at a hearing. He asserts that even though he was acting in *propria persona*, because he is an attorney, he should have been held to the same standards as an attorney. According to defendant, the trial court should have granted him a hearing to defend himself in what he describes as “indirect contempt” proceedings. Defendant fails on appeal to support his claim that “indirect contempt” proceedings even exist. Defendant points to MCL 600.1711(2), but we find nothing in the language of the statute that categorizes acts of contempt as “direct” or “indirect.”

Defendant was a moving party in this case. A moving party must appear for the hearing on his motion unless excused by the court. MCR 2.119(E)(4)(b). If he fails to do so, he is subject to an assessment of costs “equal to the expenses reasonably incurred by the opposing party in appearing at the hearing.” MCR 2.119(E)(4)(c). In this case, defendant failed to appear for a hearing on his motion and he did not contact the trial court to be excused for his absence. When defendant appeared two hours later, the trial court inquired into the reasons for defendant’s failure to appear and his failure to contact the trial court. Defendant failed to provide any good reason and was thus properly subject to sanctions under MCR 2.119(E)(4)(c).

Defendant next argues that the trial court improperly imposed another order for costs when it denied his second motion challenging the restrictions on his parenting time. Shortly after defendant stipulated to an order authorizing the court-appointed counselor to determine defendant’s parenting time, defendant sought the removal of the counselor and the reinstatement

of parenting time as provided in the judgment. After that motion was denied, defendant filed a second motion seeking the same relief. It appears from the record that the court awarded sanctions pursuant to MCR 2.114(D)(3) and (E) (the motion was interposed for an improper purpose, such as “to harass or to cause unnecessary delay or needless increase in the cost of litigation”). Under the circumstances, we conclude that the court’s action was proper.

Affirmed.

/s/ Brian K. Zahra
/s/ Michael J. Talbot
/s/ Donald S. Owens